

# EXHIBIT D

ORIGINAL

**FILED**  
Superior Court of California  
County of Los Angeles

(MW)

OCT 30 2015

REC'D  
SEP 25 2015  
FILING WINDOW

Sherril R. Carter, Executive Officer/Clerk  
by M. Ventura Deputy  
Marisa Ventura

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Attorneys for Defendant  
CITY OF SANTA CLARITA

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

FAX

JIM SOLIZ and ROSEMARIE  
SANCHEZ-FRASER,

Plaintiffs,

v.

CITY OF SANTA CLARITA,  
CALIFORNIA; and DOES 1-100,  
inclusive,

Defendants.

Case No. BC512735

Judge: Hon. Terry A. Green  
Dept: 14

**[PROPOSED]**

**ORDER ON LEGAL ISSUE REGARDING  
CUMULATIVE VOTING**

Action Filed: June 20, 2013  
Hearing Date: September 14, 2015

Trial Date: None

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

On September 14, 2015, there was a further hearing in Department 14 before the Hon. Terry A. Green on the Plaintiffs' Motion to Enforce Settlement Agreement. R. Rex Parris of the R. Rex Parris Law Firm and Kevin Shenkman of Shenkman & Hughes appeared on behalf of

1 Plaintiffs Jim Soliz and Rosemarie Sanchez-Fraser. Brian Pierik and Joseph Montes of Burke,  
2 Williams & Sorensen appeared on behalf of Defendant City of Santa Clarita.

3 Paragraph 6 C of the Settlement Agreement entered by the parties provides as follows:

4  
5 "C. The Parties will request the trial court set a hearing limited  
6 to the following legal issue ("Legal Issue"): May a California  
7 City adopt a cumulative voting method pursuant to a settlement  
8 of a lawsuit alleging violations of the California Voting Rights  
9 Act."

10 The Court reviewed the briefs and supporting evidence filed by the parties regarding the  
11 Plaintiffs' Motion to Enforce Settlement Agreement and the Court reviewed the September 1,  
12 2015 letter to the Court submitted by Secretary of State Alex Padilla (true copy attached hereto as  
13 Exhibit "1") and heard oral argument from counsel. During the hearing on September 14, 2015,  
14 counsel for the City made a motion to set aside the Order on Legal Issue that was issued by the  
15 Court on February 2, 2015 (true copy attached hereto as Exhibit "2") and requested the Court to  
16 issue an Order, finding that a California City may not adopt a cumulative voting method pursuant  
17 to a settlement of a lawsuit alleging violations of the California Voting Rights Act. Upon  
18 objection of Plaintiffs' counsel to the timeliness of the motion, the Court *sua sponte* upon full  
19 consideration of the briefs and supporting evidence of the parties and the September 1, 2015 letter  
20 of the Secretary of State, reconsidered its February 2, 2015 Order on Legal Issue, set aside that  
21 order, found a California City may not adopt a cumulative voting method pursuant to a settlement  
22 of a lawsuit alleging violations of the California Voting Rights Act, and ordered counsel for the  
23 City to submit the proposed Order.

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LA #4827-0543-0824 v1

- 2 -

ORDER ON LEGAL ISSUE REGARDING CUMULATIVE VOTING

1 IT IS HEREBY ORDERED THAT:

2 1. The Court hereby sets aside the Order on Legal Issue that was issued by the Court  
3 on February 2, 2015.

4 2. The Court answers the Legal Issue in the negative and finds that a California City  
5 may not adopt a cumulative voting method pursuant to a settlement of a lawsuit alleging  
6 violations of the California Voting Rights Act.

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8 DATED: 10/30/15

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13 HONORABLE TERRY A. GREEN  
14 JUDGE OF THE SUPERIOR COURT  
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# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/10/15

HONORABLE TERRY A. GREEN

HONORABLE

P. CORTEZ, C.A.

JUDGE

JUDGE PRO TEM

Deputy Sheriff

M. VENTURA

NONE

DEPT. 14

DEPUTY CLERK

ELECTRONIC RECORDING MONITOR

Reporter

8:45 am

BC512735

JIM SOLIZ ET AL

VS

CITY OF SANTA CLARITA CALIFORNIA

Plaintiff

Counsel

Defendant

Counsel

NO APPEARANCES

## NATURE OF PROCEEDINGS:

NON-APPEARANCE CASE REVIEW

The Court has received a letter from Alex Padilla the California Secretary of State dated September 1, 2015.

A copy of said letter has been mailed to all parties in this case this date.

## CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the minute order dated September 10, 2015 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Page 1 of 2 DEPT. 14

MINUTES ENTERED  
09/10/15  
COUNTY CLERK

EXHIBIT

5102/2015

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/10/15

DEPT. 14

HONORABLE TERRY A. GREEN

JUDGE M. VENTURA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

P. CORTEZ, C.A.

Deputy Sheriff

NONE

Reporter

8:45 am

BC512735

Plaintiff  
Counsel

JIM SOLIZ ET AL

NO APPEARANCES

VS

Defendant  
Counsel

CITY OF SANTA CLARITA CALIFORNIA

## NATURE OF PROCEEDINGS:

Dated: September 11, 2015

Sherri R. Carter, Executive Officer/Clerk

By: *M. Ventura*  
M. Ventura

R. Rex Parris Law Firm  
43364 10th Street West  
Lancaster, CA 93534

Shenkman & Hughes  
28905 Wight Road  
Malibu, CA 90265

Joseph M. Montes, Esq.  
444 S. Flower Street, Suite 2400  
Los Angeles, CA 90071

X Burke Williams & Sorensen LLP  
444 S. Flower St., Suite 2400  
Los Angeles, CA 90071



**ALEX PADILLA**  
CALIFORNIA SECRETARY OF STATE

September 1, 2015

Via Email

The Honorable Terry A. Green  
Judge of the Superior Court of California  
County of Los Angeles  
Stanley Mosk Courthouse, Dept. 14  
111 North Hill Street  
Los Angeles, CA 90012

**RECEIVED**

**SEP 01 2015**

**DEPT. 14**

**Re: Soliz v. City of Santa Clarita, Los Angeles Superior Court, Case Number BC512735**

Dear Judge Green:

The parties in this action have requested a response to a question as to whether the Secretary of State requires certification of a voting system for use in a cumulative voting election in Santa Clarita.

As Secretary of State, I am committed to ensuring that all people have an equal opportunity to participate in the electoral process. It is when barriers to participation are removed that our democracy functions best. As such, the California Voting Rights Act provides an important tool for those disenfranchised by racially polarized voting in at-large jurisdictions to have an equal opportunity to elect candidates of their choice.

The proposed use of cumulative voting in the City of Santa Clarita for the November 2016 municipal election raises issues directly related to the ability of my office to ensure the effective administration of elections in California.

As chief elections official for the State of California, I must ensure that my office can fulfill its obligation and responsibility to administer the provisions of the Elections Code and to protect the integrity of the electoral process. (Cal. Govt. Code section 12172.5). However, I cannot exercise authority that exceeds the scope of the governing statutes.

The parties in this matter have asked for an answer to the question of whether the OPTO-MARK voting system can be used for cumulative voting in Santa Clarita municipal elections. My previous correspondence to the parties highlighted the lack of express authority for use of cumulative voting in California.

Under Elections Code section 19216, the Secretary of State has the authority to require certification of voting systems. The parties in the action represent that the OPTO-MARK system does not require any software or hardware changes for use in the proposed cumulative voting election. However, those assertions are secondary to more fundamental concerns.

1500 11TH STREET, SACRAMENTO, CA 95814 • (916) 653-7244  
300 SOUTH SPRING STREET, ROOM 16507, LOS ANGELES, CA 90013 • (213) 897-6225  
WWW.SOS.CA.GOV



The Honorable Terry A. Green  
September 1, 2015  
Page 2

For the Secretary of State, the threshold question that underlies any certification request is whether any statutory authority permits use of a particular election method. As stated in previous correspondence to the parties, I have been unable to identify any express statutory authority for the use of cumulative voting in California by a general law city.

The apparent absence of such authority is critical for very practical reasons -- the Elections Code does not define any cumulative voting ballot tabulation methods by which testing and certification criteria could be developed by my office. By way of comparison, when voters approved a charter amendment to authorize use of instant runoff voting in the City and County of San Francisco, it specifically included vote tabulation methods that my office then used to develop testing and certification protocols. (San Francisco Charter § 13.102).

The Secretary of State is authorized under Elections Code section 19216 to certify voting systems. Section 19216 states, in relevant part:

"If a voting system or a part of a voting system has been certified or conditionally approved by the Secretary of State, it shall not be changed or modified until the Secretary of State has been notified in writing and has determined that the change or modification does not impair its accuracy and efficiency sufficient to require a reexamination and recertification, or conditional approval, pursuant to this article."

Any voting system that has not been certified or tested for the purpose for which it is intended to be used requires testing and certification by my office. The OPTO-MARK system has not been tested for use in a cumulative voting election environment by the Secretary of State's office. As such, the proposed change in use would be sufficient for my office to determine if the system "impairs the accuracy or efficiency" of the system. As described above, any testing protocols would lack the necessary statutory guidance required by my office to make such determinations.

Any decisions I make with regard to whether certification is required for a cumulative voting system, as requested by the parties here, has an impact that extends far beyond the jurisdictional boundaries of the City of Santa Clarita and this case.

As such, I respectfully request that the Court address the legal questions related to use of cumulative voting in California that have been raised by the parties in this action.

I thank you for the opportunity to address these issues.

Sincerely,



ALEX PADILLA  
California Secretary of State

cc: Marguerite Leoni  
Kevin Shenkman



FILING FEE EXEMPT PURSUANT  
TO GOV'T CODE SECTION 6103

CONFORMING COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

JUN 20 2013  
Shoni R. Carter, Executive Officer/Clerk  
By Joannina Lorenz, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

JIM SOLIZ and ROSEMARIE  
SANCHEZ-FRASER,

Plaintiffs,

v.

CITY OF SANTA CLARITA,  
CALIFORNIA; and DOES 1-100,  
inclusive,

Defendants.

Case No. BC512735

Judge: Hon. Terry A. Green  
Depl: 14

~~PROPOSED~~ ORDER ON LEGAL  
ISSUE

Action Filed: June 20, 2013

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN

On September 8, 2014, there was a hearing held before the Honorable Terry A. Green on the following Legal Issue ("Legal Issue"): May a California City adopt a cumulative voting method pursuant to a settlement of a lawsuit alleging violations of the California Voting Rights Act? Appearing for Plaintiffs Jim Soliz and Rosemarie Sanchez-Fraser was Kevin I. Shenkman of Shenkman & Hughes. Appearing for Defendant City of Santa Clarita was Brian A. Pierik of Burke, Williams & Sorensen.

The Plaintiffs and the City entered into a Settlement Agreement ("Settlement Agreement"), a true copy of which is attached hereto as Exhibit "1".

LA 2014-0811-1934 v1

- 1 -

ORDER ON LEGAL ISSUE

EXHIBIT "2"

1 Paragraph 6 C of the Settlement Agreement provides as follows:

2  
3 C. The Parties will request the trial court set a hearing  
4 limited to the following legal issue ("Legal Issue"): May a  
5 California City adopt a cumulative voting method pursuant to a  
6 settlement of a lawsuit alleging violations of the California  
7 Voting Rights Act?

8 IT IS HEREBY ORDERED THAT the Court answers the Legal Issue in the affirmative  
9 and finds that a California City may adopt a cumulative voting method pursuant to a settlement of  
10 a lawsuit alleging violations of the California Voting Rights Act.

11 DATED: 2/2/15

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HONORABLE TERRY A. GREEN  
JUDGE OF THE SUPERIOR COURT

1                    **PROOF OF SERVICE BY E-MAIL TRANSMISSION AND U.S. MAIL**

2                    I am a citizen of the United States and employed in Ventura County, California. I am over  
3 the age of eighteen years and not a party to the within-entitled action. My business address is  
4 2310 E. Ponderosa Drive, Suite 25, Camarillo, California 93010. I am readily familiar with this  
5 firm's practice for collection and processing of correspondence for mailing with the United States  
6 Postal Service. On September 18, 2015, I placed with this firm at the above address for deposit  
7 with the United States Postal Service a true and correct copy of the within document(s):

8                    **[PROPOSED] ORDER ON LEGAL ISSUE REGARDING**  
9                    **CUMULATIVE VOTING**



by transmitting via e-mail or electronic transmission the document(s) listed above  
to the person(s) at the e-mail address(es) set forth below.



by placing the document(s) listed above in a sealed envelope with postage thereon  
fully prepaid, in the United States mail at Camarillo, California addressed as set  
forth below.

14 R. Rex Parris, Esq.  
15 Alexander R. Wheeler, Esq.  
16 Brendan P. Gilbert, Esq.  
17 R. REX PARRIS LAW FIRM  
18 43364 10<sup>th</sup> Street West  
19 Lancaster, CA 93534  
Tel.: (661) 949-2595  
Fax: (661) 949-5724  
Attorneys for Plaintiffs Jim Soliz and  
Rosemarie Sanchez-Fraser

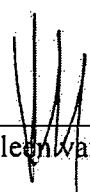
Kevin I. Shenkman, Esq.  
Mary R. Hughes, Esq.  
John L. Jones, Esq.  
SHENKMAN & HUGHES  
28905 Wight Road  
Malibu, CA 90265  
Tel.: (310) 457-0970  
Attorneys for Plaintiffs Jim Soliz and  
Rosemarie Sanchez-Fraser

20                    Following ordinary business practices, the envelope was sealed and placed for collection  
21 and mailing on this date, and would, in the ordinary course of business, be deposited with the  
22 United States Postal Service on this date.

23                    I declare under penalty of perjury under the laws of the State of California that the above  
24 is true and correct.

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Executed on September 18, 2015, at Camarillo, California.

  
\_\_\_\_\_  
Kathleen van Daalen Wetters

1                    **PROOF OF SERVICE BY E-MAIL TRANSMISSION AND U.S. MAIL**

2                    I am a citizen of the United States and employed in Ventura County, California. I am over  
3 the age of eighteen years and not a party to the within-entitled action. My business address is  
4 2310 E. Ponderosa Drive, Suite 25, Camarillo, California 93010. I am readily familiar with this  
5 firm's practice for collection and processing of correspondence for mailing with the United States  
6 Postal Service. On September 25, 2015, I placed with this firm at the above address for deposit  
7 with the United States Postal Service a true and correct copy of the within document(s):

8                    **[PROPOSED] ORDER ON LEGAL ISSUE REGARDING**  
9                    **CUMULATIVE VOTING**



by transmitting via e-mail or electronic transmission the document(s) listed above  
to the person(s) at the e-mail address(es) set forth below.



12                    by placing the document(s) listed above in a sealed envelope with postage thereon  
13                    fully prepaid, in the United States mail at Camarillo, California addressed as set  
14                    forth below.

14 R. Rex Parris, Esq.  
15 Alexander R. Wheeler, Esq.  
16 Brendan P. Gilbert, Esq.  
17 R. REX PARRIS LAW FIRM  
18 43364 10<sup>th</sup> Street West  
19 Lancaster, CA 93534  
Tel.: (661) 949-2595  
Fax: (661) 949-5724  
Attorneys for Plaintiffs Jim Soliz and  
Rosemarie Sanchez-Fraser

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Mary R. Hughes, Esq.  
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28905 Wight Road  
Malibu, CA 90265  
Tel.: (310) 457-0970  
Attorneys for Plaintiffs Jim Soliz and  
Rosemarie Sanchez-Fraser

20  
21                    Following ordinary business practices, the envelope was sealed and placed for collection  
22 and mailing on this date, and would, in the ordinary course of business, be deposited with the  
23 United States Postal Service on this date.

24                    I declare under penalty of perjury under the laws of the State of California that the above  
25 is true and correct.

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CAM #4820-3672-0406 v1

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Executed on September 25, 2015, at Camarillo, California.

  
Kaitleen van Daalen Wetters